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10/812,749

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Robert J. Simmons

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EXAMINER

LUPINO, GINA M

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,749

Applicant(s)

SIMMONS, ROBERT J.

Examiner

Gina M. Lupino

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 4, 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

I. Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following feature must be shown or the feature(s) canceled from the claim(s):

- 1.1. "column-like elements". See claim 3, line 2.

2. No new matter should be entered.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

II. Specification

1. The Specification is objected to because of the following informalities:

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- 1.1. On pages 4-8, reference character "14a" has been used to designate "cap axis", "cap sub-component", and "sub-component". Thus, the Examiner suggests the Applicant clarify whether reference character refers to either "cap axis", "cap sub-component", or "sub-component".
- 1.2. On pages 4-8, reference character "14b" has been used to designate "stem long axis" and "stem sub-component". Thus, the Examiner suggests the Applicant clarify whether reference character refers to either "stem long axis" and "stem sub-component".
- 1.3. On pages 5-8, reference character "10a" has been used to designate both "worker occupancy volume" and "space". Thus, the Examiner suggests the Applicant clarify whether reference character refers to either "worker occupancy volume" or "space".

III. Claim Objections

1. Claim 4 is objected to because it recites the limitation "the lateral delivery" in line 4. However, there is no preceding reference to a "lateral delivery" in claims 4, 3, or 1. Therefore, there is insufficient antecedent basis for this limitation in the claim.
2. Claim 5 is objected to because it recites the limitation "the fork-receiving side" in line 4. However, there is no preceding reference to a "fork-receiving side" in claims 5, 4, 3, or 1. Therefore, there is insufficient antecedent basis for this limitation in the claim.

IV. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

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(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. With respect to claim 1, claim 1 states, "substantially freely open, in a vertical pass-through sense". This language is unclear and vague. Therefore, further clarification is necessary.

1.1(a) However, for the purposes of further examination, the Examiner will construe this language in claim 1 to mean the open framework has an open top through which something may pass vertically.

V. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by GOODACRE (U.S. Patent No. 3,268,033).

1.1. With respect to claim 1, GOODACRE discloses a machine-liftable and maneuverable, attended open cage-like load transporter 30 for handling and promoting installation-site delivery of building-frame beam components during the construction of a plural story structural building frame with

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1.1(a) A worker occupancy volume 44 defined by substantially horizontal floor structure 31 which is joined to substantially upwardly extending, open, and at least partially floor perimeter 38 wall structure 32, 36, 42, and

1.1(b) Disposed substantially directly overhead said floor 31 and wall structures 32, 36, 42, general open, horizontal, load-support deck structure 35 overhead capable of supporting and load-carrying of elongate building-frame beam components,

1.1(c) said deck structure 35 having an open framework that is substantially freely open, in a vertical pass-through sense, to the underlying worker occupancy volume so as to accommodate load-handling personnel access, and capable of promoting attended personnel assistance, by a worker stationed in said occupancy volume 44.

1.1(d) See Figures 1-5 and column 3, lines 19-25, 44-48.

2. With respect to claim 3, GOODACRE discloses a transporter, as discussed above, where the wall 32, 36, 42 and deck structures 35 are formed of elongate, interconnected beam-like and column-like elements. See Figure 1.

VI. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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1. Claims 2, 4, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over GOODACRE (U.S. Patent No. 3,268,033) in view of THOMAS (U.S. Patent No. 2,639,051).

2. With respect to claim 2, GOODACRE discloses a transporter, as discussed above, with a building-frame-facing side and a deck structure 35

2.1. However, GOODACRE fails to teach a deck structure equipped with a deployable lateral extension which can be extended and withdrawn selectively and laterally outwardly from and inwardly toward the transporter's building-frame-facing side

2.2. THOMAS teaches a transporter 10 with a deployable lateral extension 16, 18 which can be extended and withdrawn selectively and laterally outwardly from and inwardly toward the transporter's 10 building-frame-facing side that is capable of accommodating the delivery toward a building frame installation site, of a transported and handled building-frame beam component. See Figures 1, 2, 4, 8, 22, 23.

2.3. Therefore, it would have been obvious to one of ordinary skill in the art to modify GOODACRE with the deployable lateral extension of THOMAS in order to transport and deliver a building-frame beam component toward a building frame installation site.

3. With respect to claim 4, GOODACRE discloses a transporter, as discussed above, with a building-frame-facing side and a deck structure 35.

3.1. However, GOODACRE fails to teach a deck structure equipped with a deployable lateral extension which can be extended and withdrawn selectively laterally outwardly from and inwardly toward the transporter's building-frame-facing side

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3.2. THOMAS teaches a transporter 10 with a deployable lateral extension 16, 18, as discussed above, which can be extended and withdrawn selectively and laterally outwardly from and inwardly toward the transporter's building-frame-facing side that is capable of accommodating the delivery of a transported and handled building-frame beam component. See Figures 1, 2, 4, 8, 22, 23

3.3. Therefore, it would have been obvious to one of ordinary skill in the art to modify GOODACRE with the deployable lateral extension of THOMAS in order to laterally delivery a handled building-frame beam component toward a building frame installation site.

4. With respect to claim 5, GOODACRE discloses a transporter, as discussed above,

4.1. Designed with the capability of handling generally T-shaped beam components that each may include angularly intersecting and interconnected elongate cap and stem sub-components, and

4.2. For this purpose the deck structure 35 includes at least a pair of elongate, laterally spaced beam-like elements 36 (See Figure 5) whose long axes generally extend from the transporter's fork-receiving side toward its building-frame-facing side (See Figures 1-5),

4.3. Which pair of beam-like elements 36 are capable of supporting a cap sub-component in a T-shaped beam component with that cap sub-component's long axis extending generally transversely of the long axes of the beam-like elements 36 in the pair,

4.4. However, GOODACRE fails to teach a lateral extension, as discussed above, with an elongate beam-like cross-piece which,

4.4(a) with the extension deployed and extending outwardly from the transporter's building-free-facing side,

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4.4(b) is disposed to support the stem sub-component in a T-shaped beam component with the long axis of that stem sub-component extending generally transversely relative to the long axis of the cross-piece.

4.5. THOMAS teaches a transporter 10 with a deployable lateral extension 16, 18 which

4.5(a) can be extended outwardly from the transporter's 10 building-frame-facing side and

4.5(b) is capable of supporting a stem sub-component in a T-shaped beam component with the long axis of that stem sub-component extending generally transversely relative to the long axis of the cross-piece. See Figures 1, 2, 4, 8, 22, 23

4.6. Therefore, it would have been obvious to one of ordinary skill in the art to modify GOODACRE with the lateral extension of THOMAS in order to support a T-shaped beam component.

5. With respect to claim 6, GOODACRE discloses a transporter, as discussed above,

5.1. Capable of handling elongate unilinear beam components and

5.2. For this purpose, the deck structure 35 includes at least a pair of elongate, laterally spaced beam-like elements 36

5.3. Whose long axes 36 generally extend from the transporter's building-frame-facing side toward an opposite side of the transporter,


5.4. Which pair of beam-like elements 36 is capable of supporting a unilinear beam component with that component's long axis extending generally transversely relative to the long axes of the beam-like elements in the pair.

5.5. See Figures 1-5.

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VII. Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina M. Lupino whose telephone number is (571) 272-6557. The examiner can normally be reached on 8:30am - 5:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
5. GML


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